

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**Ashley T. Adams,**

**Plaintiff,**

**V.**

**Integrity Staffing  
aka Pepper Hamilton, LLP  
Dawn Harper, et al.,**

**Civil Action No. 05-249 (KAJ)**

**Randstad Staffing Services,  
Woman of India nationality, et al.,**

**JP Morgan Chase Bank One,  
Cheryl Denny, et al.,**

**FILED ELECTRONICALLY**

**Ernest & Young,  
Scott Gallagher, et al.,**

## Defendants.

**MOTION OF DEFENDANT, CHERYL DENNEY,**  
**TO DISMISS PLAINTIFF'S COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant, Cheryl Denny, by her undersigned counsel, moves to dismiss the Complaint of Plaintiff, Ashley T. Adams, with prejudice. In support of Defendant's Motion, the Court is respectfully referred to the accompanying memorandum of law.

Respectfully submitted,

**FOX ROTHSCCHILD LLP**

**/s/ Neal J. Levitsky, Esquire #2092**  
**NEAL J. LEVITSKY, ESQUIRE #2092**

919 North Market Street, Suite 1300

P.O. Box 2323

Wilmington, DE 19899-2323

(302) 654-7444

Counsel for Defendant, Cheryl Denny

Dated: May 26, 2005

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## Defendants.

**MEMORANDUM OF LAW OF DEFENDANT, CHERYL DENNEY, IN  
SUPPORT OF HER MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

## I. INTRODUCTION AND FACTS

Plaintiff, Ashley T. Adams (“Plaintiff” or “Adams”), alleges in her Complaint, in relevant part, that Defendants, Cheryl Denny (“Denny”)<sup>1</sup> and JPMorgan Chase Bank (incorrectly identified in the Complaint as “JP Morgan Chase Bank One”), discriminated against her due to her race, color, national origin and gender, retaliated against her, and subjected her to a hostile work environment in violation of Title VII of the Civil Rights Act of 1964 (“Title VII”). (See Plaintiff’s Complaint).

<sup>1</sup> Denneny is an employee of Defendant, JPMorgan Chase Bank. It is not clear from Plaintiff's Complaint whether Denneny is a named defendant because, while she is named in the caption, there are no substantive allegations made against her in the body of the Complaint. Notwithstanding the fact that it is not clear from Plaintiff's Complaint that she is a defendant in this matter, in an abundance of caution, Denneny will assume for purposes of this Motion that Plaintiff names Denneny as a defendant in the instant action.

There is no individual liability under Title VII. Accordingly, Adams's claims against Denny must be dismissed with prejudice.

## **II. ARGUMENT**

### **A. Standard of Review**

In analyzing a motion to dismiss pursuant to Rule 12(b)(6), the court must accept as true all material allegations of the complaint and it must construe the complaint in favor of the plaintiff. See Trump Hotels & Casino Resorts, Inc. v. Mirage Resorts, Inc., 140 F.3d 478, 483 (3d Cir. 1998). Dismissal under Federal Rule of Civil Procedure 12(b)(6) is based on the complaint and is limited to those instances where "it appears beyond doubt that the plaintiff can prove no set of facts in support of [her] claim which would entitle [her] to relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957) (footnote omitted); see also In re Rockefeller Ctr. Props., Inc. Sec. Litig., 311 F.3d 198, 215 (3d Cir. 2002). Although the Court must accept well-pleaded allegations in Adams's Complaint as true, the Court need not accept as true her bald assertions or legal conclusions. Id. at 215-16.

### **B. There Is No Individual Liability Under Title VII and, Accordingly, All Claims Against Denny Must Be Dismissed.**

Plaintiff asserts in her Complaint that Denny violated Title VII by discriminating and retaliating against her and harassing her. (See Plaintiff's Complaint). It is well-settled that there is no individual liability under Title VII. In Sheridan v. E.I. DuPont de Nemours and Co., 100 F.3d 1061, 1078 (3d Cir. 1996), the Third Circuit held that individual employees cannot be held liable under Title VII. Since then, this Court consistently has held that there is no individual liability under Title VII. See Charlton v. Blue Cross & Blue Shield of Delaware, No. CIV. A. 99-34-GMS, 2001 WL 694533, at \* 2 n. 5 (D. Del. June 20, 2001); Nelson v. Fleet National Bank, 949 F.Supp. 254, 258 (D. Del. 1996).

As such, Adams's claims against Denny must be dismissed in their entirety with prejudice.

**III. CONCLUSION**

Because there is no individual liability under Title VII, the Complaint of Plaintiff, Ashley T. Adams, must be dismissed as to Defendant, Cheryl Denny, in its entirety with prejudice.

Respectfully submitted,

**FOX ROTHSCHILD LLP**

/s/ Neal J. Levitsky, Esquire #2092  
**NEAL J. LEVITSKY, ESQUIRE #2092**  
919 North Market Street, Suite 1300  
P.O. Box 2323  
Wilmington, DE 19899-2323  
(302) 654-7444

Counsel for Defendant, Cheryl Denny

Date: May 26, 2005

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## Defendants.

**Civil Action No. 05-249 (KAJ)**

**FILED ELECTRONICALLY**

## ORDER

AND NOW, this       day of       , 2005, upon consideration of the Motion of Defendant, Cheryl Denny, to Dismiss Plaintiff's Complaint, and any response thereto, it is hereby ORDERED that Plaintiff's Complaint is dismissed as to Defendant, Cheryl Denny, in its entirety with prejudice.

BY THE COURT:

Kent A. Jordan, United States District Judge

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FOR THE DISTRICT OF DELAWARE**

<b>Ashley T. Adams,</b>	:	
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>Integrity Staffing</b>	:	
<b>aka Pepper Hamilton, LLP</b>	:	
<b>Dawn Harper, et al.,</b>	:	<b>Civil Action No. 05-249 (KAJ)</b>
	:	
<b>Randstad Staffing Services,</b>	:	
<b>Woman of India nationality, et al.,</b>	:	
	:	
<b>JP Morgan Chase Bank One,</b>	:	<b>FILED ELECTRONICALLY</b>
<b>Cheryl Denny, et al.,</b>	:	
	:	
<b>Ernest &amp; Young,</b>	:	
<b>Scott Gallagher, et al.,</b>	:	
	:	
<b>Defendants.</b>	:	

**CERTIFICATE OF SERVICE**

I, Neal J. Levitsky, Esquire, hereby certify that a true and correct copy of the foregoing Motion to Dismiss of Defendant, Cheryl Denny, was served upon the following parties, this date, via first class mail:

Ashley T. Adams  
716 North Barrett Lane  
Christiana, DE 19702  
Plaintiff

Integrity Staffing  
220 Continental Drive, Suite 102  
Newark, DE 19713-2107  
Defendant

Ernst & Young  
5 Times Square  
New York, NY 10036  
Defendant

Randstad Staffing  
111 Continental Drive, Suite 201  
Newark, DE 19713-2107  
Defendant

**/s/ NEAL J. LEVITSKY, ESQUIRE #2092**  
**NEAL J. LEVITSKY, ESQUIRE #2092**

Dated: May 26, 2005